

Finance Bill 2017 Considerations

A revised draft Finance Bill was released as part of the Budget Resolutions that contained changes that impact employers who operate salary sacrifice schemes and arrangements or schemes that involve cash alternatives to benefits or payments that are currently exempt from tax. The Finance Bill describes these arrangements as optional remuneration (OpRA).

This document focuses on OpRA that are paid in conjunction with approved mileage allowance payments (AMAP) for business miles that are exempt from tax and National Insurance (NI). The key changes that will come into effect from 6 April 2017 are:

AMAP will no longer be exempt from income tax when paid by an employer as part of an OpRA arrangement

- No tax relief will be available for employees on the AMAP paid by the employer as part of an OpRA arrangement
 - This means that employees will be in a worse financial position than if they were not in an OpRA arrangement
- The current NI exemption for AMAP is not effected by the Finance Bill changes but the NI rules are likely to be changed at any time to mirror the new tax rules
- Grandfathering provision mean that existing schemes can operate under the current rules until 5 April 2018, however,
 - Any employee joining a scheme from 6 April 2017 will taxed under the new rules
 - Any changes made to an employee's arrangements on or after 6 April 2017 will switch off grandfathering for that employee

HM Revenue & Customs (HMRC) have confirmed that this is how they intended the rules to operate from 6 April 2017.

What schemes are affected?

There are two main types of schemes affected, AMAP optimised car/cash allowance schemes (Optimised Cash) and employee car ownership schemes (ECOS) that use AMAP to help fund the cost of the car.

How are they affected?

Both Optimised Cash and ECOS arrangements as currently structured will lose their tax efficiency from 6 April 2017 and may lose their NI efficiency.

Action required

This means that any potential new joiners should not be added to either Optimised Cash or ECOS. Any changes made on/after 6 April 2017 would mean the new rules would apply from the date of the change. Changes could include use of a different rate for fuel costs, a change to the cash allowance or a new car provided under ECOS.

Optimised Cash and ECOS that use AMAP will no longer be viable as currently structured from 6 April 2018. Any employer running such a scheme should take immediate action to plan for the change and how this will be communicated to participating employees. A brief summary of Optimised Cash and ECOS is provided below:

Optimised Cash

A cash allowance paid to an employee is treated as earnings subject to tax and NI. In contrast, an AMAP paid to an employee in respect of allowable business mileage in a private car will not trigger a tax or NI charge. Many employers who pay a cash allowances reimburse their employees for business travel undertaken in a private car using HMRC advisory fuel rates (AFR).

In an Optimised Cash arrangement tax and NI free AMAP are made to an employee for undertaking business travel in a private car. The AMAP paid in excess of the AFR is funded by reducing the cash allowance paid. The balance of any remaining cash allowance is paid to the employee subject tax and NI withholding. The amount the cash allowance is reduced by depends on whether the employer chooses to pass on any NI saving to the employee.

The tax exemption and tax relief available for employees will cease from April 2018 for all participants in Optimised Cash. Any changes to the arrangement on or after 6 April will also lead to the removal of the exemption and the ability of employees to claim tax relief.

This means that Optimised Cash arrangements as currently structured will no longer be viable from 6 April 2018 and no new joiners or changes should be permitted after 5 April 2017.

ECOS

ECOS that use AMAP to help fund the cost of the car typically involve the purchase of car by an employee under a credit sale agreement, under which the employee is required to make monthly payments for the car. Although the design of ECOS that use AMAP vary a key component is the payment of tax and NI free AMAP for business miles by the employer each month with the balance above the cost of fuel being used to pay towards the car owned by the employee. The employer also pays a cash amount, subject to tax and NI withholding, to the employee with the net used to pay any remaining payment on the car not covered by the AMAP less fuel costs.

Any car obtained through an ECOS on or after 6 April will lose the income tax saving and significantly increase the costs to the employer and, if not compensated by their employer, the employee. If changes are made to the NI rules in line with the Finance Bill then the costs will increase further.

This means that ECOS that use AMAP will no longer be viable as currently structured for any new car orders from 6 April 2017 and all cars under ECOS from 6 April 2018.

Please note that these notes are intended to provide a quick reference to the current tax regulations for drivers of company cars and employers. The content has been provided for informational purposes only and should not be relied on to cover specific situations or circumstances or as a substitute for professional advice.